

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BARRY EMMETT,

Plaintiff,

VS.

T.D.C.J. CORPORATION,

Defendant.

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CIVIL ACTION NO. 4:15-CV-2658

MEMORANDUM AND ORDER

Barry Emmett, an inmate incarcerated at the Estelle Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, has filed a prisoner civil rights complaint. Emmett has not paid the filing fee. This action will be dismissed pursuant to the provisions of 28 U.S.C. § 1915(g).

Barring a show of imminent danger, under the Prison Litigation Reform Act of 1995, a prisoner may not file an action without prepayment of the filing fee, if he has, on three or more prior occasions, filed a prisoner action in federal district court or an appeal in a federal court of appeals which was dismissed as frivolous or malicious. 28 U.S.C. § 1915(g); *Adepegba v. Hammons*, 103 F.3d 383, 385 (5th Cir. 1996). Emmett accumulated at least 15 such dismissals before filing the pending complaint, and is no longer allowed to proceed *in forma pauperis* pursuant to the provisions of section 1915(g). See, e.g., *Emmett v. Ginsel*, No. 4:12cv821 (S.D. Tex. Mar. 28, 2013); *Emmett v. Tatsch*, No. 4:12cv1775 (S.D. Tex. Nov. 26, 2012); *Emmett v. TDCJ*, No. 4:11cv2702 (S.D. Tex. May 16, 2012).

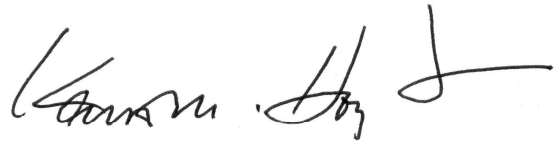
In light of the pleadings and his litigation history, Emmett has failed to show that he is eligible to proceed as a pauper. Consequently, this action should be dismissed pursuant to 28

U.S.C. § 1915(g) and 28 U.S.C. § 1915(e). This dismissal shall count as a strike under section 1915(g).

The court ORDERS that the Prisoner Civil Rights Complaint (Docket Entry No. 1), filed by TDCJ-CID Inmate Barry Emmett, TDCJ-CID No. 01383329, is DISMISSED. 28 U.S.C. § 1915(g); 28 U.S.C. § 1915(e).

The Clerk is directed to provide a copy of this Memorandum Opinion and Order to the parties and to the TDCJ - Office of the General Counsel, P.O. Box 13084, Austin, Texas 78711, Fax Number (512) 936-2159.

SIGNED on this 16th day of September, 2015.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge